

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Respondent,

No. CR S-04-288 LKK KJM P

vs.

JOSEPH FERRARI,

Movant.

ORDER

Movant, a federal prisoner proceeding pro se, has filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. On August 16, 2008, respondent filed a motion to dismiss; movant has not filed an opposition to this motion.

Local Rule 78-230(m) provides in part: “Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion . . . .”

Local Rule 11-110 provides that failure to comply with the Local Rules “may be grounds for imposition of any and all sanctions authorized by statute or Rule or within the inherent power of the Court.”

Finally, the court possesses the discretionary authority to dismiss an action based on plaintiff’s failure to diligently prosecute. Fed. R. Civ. P. 41(b). Movant’s failure to reply to

1 the motion may be deemed a failure to prosecute and result in a recommendation that his motion  
2 to correct his sentence be dismissed.

3 Good cause appearing, IT IS HEREBY ORDERED that, within thirty days of the  
4 date of this order, movant shall file an opposition, if any, to the motion to dismiss. Failure to file  
5 an opposition shall result in a recommendation that this action be dismissed pursuant Federal  
6 Rule of Civil Procedure 41(b).

7 DATED: November 24, 2008.

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10 U.S. MAGISTRATE JUDGE

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